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OFFICE OF SECRETARY

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March 9, 1994

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N. W.
Washington, D. C. 20554

Re: American Paging, Inc.
PR Docket No. 93-35
RM-7986

Dear Mr. Caton:

Transmitted herewith on behalf of American Paging, Inc. are an original and eleven copies of its comments in the above-referenced proceeding.

In the event there are any questions concerning this matter, please communicate with the undersigned.

Very truly yours,


George Y. Wheeler

Enclosure

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554**

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In re)
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Amendment of the Commission's)
Rules to Provide Channel)
Exclusivity to Qualified)
Private Paging Systems at)
929-930 MHz)

PR Docket No. 93-35
RM-7986

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

To: The Commission

**COMMENTS OF
AMERICAN PAGING, INC.**

American Paging, Inc. ("API"), by its attorneys, submits its comments in response to the Petitions for Reconsideration/Clarification filed by the Association for Private Carrier Paging Section of the National Association of Business and Educational Radio, Inc. ("APCP"), American Mobilephone, Inc. ("AMI"), First National Paging Company, Inc. ("FNP"), MAP Mobile Communications, Inc. ("MAP"), Metrocall, Inc. ("Metrocall") and Paging Network, Inc. ("Pagenet") in the above-captioned rulemaking.

INTRODUCTION

We strongly support the Commission's action in its Report and Order released November 17, 1994, amending its rules to grant channel exclusivity to qualified local, regional and national paging systems in the 929-930 MHz band. By this action, including the related rule changes in this proceeding, the Commission has promoted spectrum efficient uses of PCP frequencies, development of new and innovative service offerings, rapid and widespread

availability of advanced services and expanded competition in the paging industry.

The foregoing petitions propose changes in aspects of the Commission's rules and policies, which in many cases are logical and desirable extensions of the policy decisions which the Commission has already made. We support the establishment of extended implementation options for incumbent (pre-October 14, 1993) system operators, the use of state boundaries instead of contour coverage standards for determining the geographic scope of regional exclusivity and the use of 3500 watts ERP maximum for exclusive channel systems designated "regional." Also as discussed here, we oppose adoption of proposals to expand the rights of grandfathered licensees to make significant modifications to facilities in areas where a co-channel licensee has qualified for exclusivity.

DISCUSSION

1. The Commission Should Establish Extended Implementation Options for Incumbent (Pre-October 14, 1993) System Operators.

APCP (Petition, p. 7, Fn. 6) and Pagenet (Petition, pp. 4-5) describe the need for an eight month period from the "licensing date" determined in the Commission's Public Notice of the certification of its awards of channel exclusivity for qualifying systems. We concur and support adoption of the Commission's policies confirming that incumbents will qualify for earned exclusivity if they have systems built and in operation within the eight months specified above.

We also support the related points made by APCP and Pagenet that incumbents certified by the Commission as qualifying for exclusivity should be able to modify and/or supplement the sites authorized or applied for prior to October 14, 1993, during the eight month period following Commission certification. These transmitter facilities, including post-October 14, 1993 modified and supplemental sites, should count for the purposes of determining compliance with the requirements in Section 90.495 of the Commission's rules.

Several incumbent PCP licensees, including AMI, FNP, Metrocall and others have argued forcefully for additional "slow growth" options which would permit these licensees to request extended implementation in connection with the completion of systems authorized or applied for prior to October 14, 1993. We supported adoption of such extended implementation policies in our Reply Comments in this proceeding (API Reply Comments, pp. 4-5) and continue to do so here. We believe that whatever concerns the Commission may have had in adopting Footnote 43 to its Report and Order, there are clear benefits from permitting incumbents to have the same "slow-growth" options as those available to licensees of systems proposed after October 14, 1993.

2. Systems Qualifying for Regional Exclusivity Should Have Service Areas Defined by State Boundaries.

We support adoption of the proposals of APCP (Petition, pp. 11-19) and Pagenet (Petition, pp. 6-7) to use statewide areas as the basic building blocks in defining of the service area of any "regional" system. We also believe that it is appropriate for the

Commission to authorize 3500 watts ERP maximum power for "regional" systems, in connection with the modification of the geographic scope of such licensing to statewide areas as proposed here.

3. The Commission Should Deny Proposals to Expand the Rights of Grandfathered Licensees to Modify Existing Systems in any area Where a Co-Channel Licensee has Qualified for Exclusivity.

The proposal of MAP (Petition, pp.6-7) to have the Commission expand the types of modifications which grandfathered licensees can make to their existing systems in any area where there is a co-channel licensee qualifying for exclusivity should be denied. Footnote 66 of the Commission's Report and Order indicates a clear intention to limit changes in such existing facilities to "minor modifications," which we support in fairness to existing grandfathered and co-channel licensees qualifying for exclusivity. A change of transmitter site necessitated by a loss of site availability should be reasonably accommodated. Other changes in the terms of the license authorization of the grandfathered facilities should not be permitted, particularly if the effect of such changes is to diminish or impair the development potential of a co-channel system which has already qualified for exclusivity in the same area.

CONCLUSION

The Commission should establish on reconsideration policies creating extended implementation options for incumbent PCP licensees, use of statewide licensing for exclusive channel "regional" PCP systems and authorize 3500 watts ERP maximum power for "regional" as well as nationwide systems. The proposals

of MAP to expand the rights of grandfathered existing licensees should be denied.

Respectfully submitted,

AMERICAN PAGING, INC.

By /s/ George Y. Wheeler
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March 9, 1994

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I, Judy Cooper, a legal secretary in the law firm of Koteen & Naftalin, hereby certify that on the 9th day of March, 1994, copies of the foregoing Comments were deposited in the U.S. mail addressed to:

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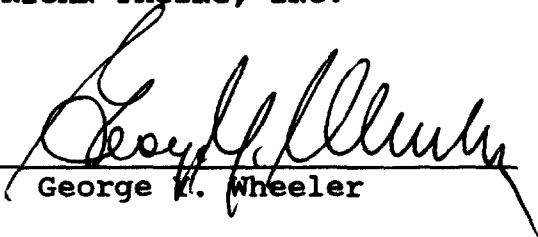
/s/Judy Cooper
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Respectfully submitted,

AMERICAN PAGING, INC.

By


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